

STANDARD AGREEMENT AMENDMENT

STD. 213 A (Rev 6/03)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED _____ Pages

AGREEMENT NUMBER

S0420001

REGISTRATION NUMBER

8380080444346.1

AMENDMENT NUMBER

1

1. This Agreement is entered into between the State Agency and Contractor named below:
 STATE AGENCY'S NAME
Department of Personnel Administration
 CONTRACTOR'S NAME
Human Behavior Associates, Inc.
2. The term of this Agreement is August 1, 2004 through June 30, 2007
3. The maximum amount of this Agreement after this amendment is: \$93,750.00
Ninety Three Thousand Seven Hundred Fifty Dollars and No Cents
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

This Contract Agreement Number S0420001 effective August 1, 2004, is hereby amended to extend the Contract term end date to June 30, 2007.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

Human Behavior Associates, Inc.

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Dr. James B. Wallace, Ph.D., President

ADDRESS

1350 Hayes Street, Suite B-100
Benicia, CA 94510**STATE OF CALIFORNIA**

AGENCY NAME

Department of Personnel Administration

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Michael T. Navarro

ADDRESS

1515 S Street, North Building, Suite 400; Sacramento, CA 95814

CALIFORNIA
Department of General Services
Use Only

**D/GS approval not required
per S.A.M. Sec. 1215.**

☐ Exempt per:

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER

S0420001

REGISTRATION NUMBER

8380080444346

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Personnel Administration

CONTRACTOR'S NAME

Human Behavior Associates, Inc.

2. The term of this Agreement is: August 1, 2004 through July 31, 2006

3. The maximum amount of this Agreement is: \$ 93,750.00
Ninety Three Thousand Seven Hundred Fifty Dollars and No Cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	5 pages
Exhibit B – Budget Detail and Payment Provisions	1 page
Exhibit C – General Terms and Conditions	3 pages
Exhibit D – Special Terms and Conditions	2 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

Human Behavior Associates, Inc.

BY (Authorized Signature)

James B. Wallace

DATE SIGNED (Do not type)

7-14-04

PRINTED NAME AND TITLE OF PERSON SIGNING

Dr. James B. Wallace, Ph.D., President

ADDRESS

1350 Hayes Street, Suite B-100
Benicia, CA 94510

STATE OF CALIFORNIA

AGENCY NAME

Department of Personnel Administration

BY (Authorized Signature)

William A. Avritt

DATE SIGNED (Do not type)

7/27/04

PRINTED NAME AND TITLE OF PERSON SIGNING

William A. Avritt, Deputy Director

ADDRESS

1515 S Street, North Building, Suite 400
Sacramento, CA 95814

California Department of General
Services Use Only

APPROVED

AUG - 3 2004

DEPT OF GENERAL SERVICES

☐ Exempt per:

EXHIBIT A SCOPE OF WORK

- I. Contractor shall provide Substance Abuse Professional (SAP) services to a consortium that has been established by the Department of Personnel Administration to conduct drug and alcohol testing for the State's Federally-mandated commercial driver and the State's Reasonable Suspicion testing programs for State employees that are covered by the Federal drug and alcohol testing regulations and State of California statutes, regulations and collective bargaining agreements. The term of the agreement will be August 1, 2004 through July 31, 2006. The DPA reserves the right to extend the contract for one (1) additional year. The rate will remain the same for each contract term.

II. SPECIFIC REQUIREMENTS

A. Employee Evaluation and Report to the Employer

For each case referred, the Contractor shall:

- Conduct an initial (face-to-face) evaluation, within 72 hours of initial call (excluding holidays, Saturdays and Sundays) by the employee or State agency official, of the employee to assess their level of use of drugs and/or alcohol, and upon completion of the evaluation, either conclude that the employee does not need treatment or recommend appropriate treatment and/or resources to the employee. Prepare a written report to the employer indicating the course of action recommended to the employee within 72 hours (excluding holidays, Saturdays and Sundays) of meeting with the employee.
- Monitor and evaluate the employee's progress throughout treatment and prepare a written report to the employer regarding the employee's progress in rehabilitation, including a determination as to whether the employee has properly followed the prescribed rehabilitation program. If necessary, the report will also specify any follow-up testing (including the number of tests required and the duration) required for the employee after the employee has returned to work. This report shall be provided to the employer within 72 hours (excluding holidays, Saturdays and Sundays) following the evaluation.

All written reports regarding the evaluation of an employee shall be expressed as specified by the State.

Except as otherwise agreed to by the State and the Contractor, the written report to the employer is to be delivered by first class mail or electronic transmission to a designated State representative. Records

will be maintained as specified in 49 CFR, Part 40 of the Federal DOT Motor Carrier Safety Act. The Contractor will bear all costs of forms, reports, postage, and facsimile services, and, if required, courier services.

- Prior to the employee returning to work, he/she shall be reevaluated, and the Contractor will provide a written report to the employer as to the status of the employee's participation in treatment. The report shall also indicate the number and duration of follow-up tests required by the employee should that employee be returned to work.
- If requested by an employer, the Contractor will provide an "early return to work" evaluation on the employee. This is an optional component and is not included in the definition of a case as defined above.
- If an employee tests positive on a follow-up test, a subsequent random or any other test, and is referred to the SAP for a subsequent evaluation, the evaluation will be considered a new case.

B. Confidentiality of Evaluation/Reports

Contractor shall maintain all necessary safeguards inclusive of any information relating to the employee's evaluation by the SAP. Release of information regarding an employee's evaluation shall be provided as specified by State and/or Federal confidentiality laws regarding disclosure of medical records.

The State reserves the right to conduct on-site inspections of the Contractor's facilities.

C. Monthly Summary Reports

Contractor shall provide a statistical summary of all evaluations performed for each calendar month. The report will include the total number of employees evaluated and total number of employees evaluated by State department.

D. Court Testimony

If required by the State, the Contractor or its qualified representative shall attend appeal hearings or court hearings and provide expert testimony concerning the methods used, reliability, and results of specific analyses. The State will pay:

- Fees for the services of an expert to provide consultation and/or testimony for such appeal or court hearing; and
- The actual cost of transportation (e.g., plane fare, taxi fare, parking, etc.) attendant to such appeal hearing or court appearance and per diem not to exceed the rate paid to the State's nonrepresented employees. If a privately-owned or company automobile is used for such travel, the Contractor shall be reimbursed at the rate of 34 cents per mile. The maximum per diem rate (including meals and lodging) allowed is \$124.00 per day plus taxes on entire cost of lodging rate. This rate may be subject to increase during the contract period.

E. Minimum Qualifications

Contractor shall be a current provider of SAP services, and drug and alcohol assessment/diagnostic and treatment services. Contractor must have provided SAP services for a minimum of one year.

Contractor and its agents or employees must be licensed, trained, and/or certified (as required by the Federal DOT Motor Carrier Safety Act, 49 CFR, Part 40) to provide SAP services.

F. Minimum Qualifications for SAP Clinicians

A SAP clinician must be a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, or a Certified Employee Assistance Professional (CEAP), or a certified addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuses (ICRC)). All SAPs must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders. Additionally, a SAP clinician must possess Basic Knowledge, Qualification Training, Continuing Education and Documentation as stated in CFR Part 40.281 (a) – (e).

Clinical settings for equivalent experience include:

- Hospitals and/or residential treatment facilities that provide inpatient and/or outpatient treatment programs for persons who are chemically dependent. Duties to include assessment/diagnostic evaluations, responsible for developing and supervising treatment, recovery and/or aftercare programs for clients.
- Outpatient treatment programs for persons who are chemically dependent performing assessment/diagnostic evaluations, responsible

for developing and supervising treatment, recovery and/or aftercare programs for clients.

G. System and Administrative Requirements

The Contractor shall adhere to the following:

- The system must include provisions which allow State agencies and their agents to obtain services from appropriately licensed, certified, and/or trained Professionals/clinicians. The Contractor shall attempt to provide back-up SAP coverage for each SAP location.
- A business telephone number must be in service from 8:00 a.m. to 5:00 p.m., Monday through Friday and must either have a voice mail service or answering machine. This service must be installed and maintained no later than the effective date of this contract and provided for the duration of the contract for use by State agencies.
- Contractor will provide statistics and reports as a condition of the contract. Details of the statistics and reports will be negotiated with the successful bidder(s).
- Contractor must have a fully automated accounting and billing system capable of producing invoice/billing statements.

H. Administrative Requirements

The Contractor may not offer services other than those specified in this agreement to State agencies without prior approval of DPA. The Contractor may not charge State agencies for services without DPA's prior approval.

The Contractor must provide a senior account executive with authority to act on behalf of the firm and who shall be assigned to this account. A back-up account executive must be assigned during the time the senior account executive is not available. One (1) of these account representatives should be available for direct telephone contact between the hours of 8:00 a.m. and 5:00.

III. The project representatives during the term of this agreement will be:

State Agency: The Department of Personnel Administration	Contractor: Human Behavior Associates, Inc.
Name: Sydney Perry	Name: Dr. James B. Wallace, Ph.D.
Phone: (916) 324-2763	Phone: (707) 747-0117
Fax: (916) 324-0524	Fax: (707) 747-6646

Direct all inquiries to:

State Agency: The Department of Personnel Administration	Contractor: Human Behavior Associates, Inc.
Section/Unit: Policy Unit	Section/Unit:
Attention: Sydney Perry	Attention: Dr. James B. Wallace, Ph.D.
Address: 1515 S. St., North Bldg., Suite 400, Sacramento, CA 95814	Address: 1350 Hayes St, Suite B-100, Benicia, CA 94510
Phone: (916) 324-2763	Phone: (707) 747-0117
Fax: (916) 324-0524	Fax: (707) 747-6646

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred, in accordance with the rates specified herein:

Employee Evaluations

\$525.00/per case

\$200.00/hour for Consultant/Expert Testimony

- B. Invoices shall include the Agreement Number as well as the number of SAP assessments per month and fees for consultant/expert testimony services, and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Personnel Administration
1515 S Street, North Building, Suite 400
Sacramento, CA 95814
Attention Sydney Perry

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT C
GENERAL TERMS AND CONDITIONS

APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354).

NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated

thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC304 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

TIMELINESS: Time is of the essence in this Agreement.

COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be effected thereby.

UNION ORGANIZING: For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that:

By signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.

b) No state funds received under this agreement will be used to assist, promote or deter union organizing.

c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

PRELITIGATION DISPUTE RESOLUTION PROCESS: Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under the Agreement which is not disposed of by written agreement shall be decided by the DPA, who shall reduce its decision in writing and mail or otherwise furnish a copy thereof to the Contractor. The Contractor will have thirty (30) calendar days after receipt of such decision to submit a written protest to the DPA specifying in detail in what particulars the Agreement requirements were exceeded. Failure to submit such protest within the period specified shall constitute a waiver of any and all rights to adjustment in Agreement terms and the DPA's decision shall be final and conclusive. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement upon receipt of written order from the DPA to do so.

AGENCY LIABILITY: The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

SUBCONTRACTORS: Nothing, contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

TERMINATION OF AGREEMENT: The DPA may terminate this Agreement or any part thereof for any reason or no reason by giving the Contractor thirty (30) days written notice of the effective date of termination. In the event of such termination, the State shall be relieved of any payments arising under this Agreement and may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due to the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

PROVISIONS: If any provision of this Agreement shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Agreement, but the same shall be construed and enforced as if said illegal or invalid provision has never been inserted herein.

AMENDMENTS: Any changes to this Agreement shall be agreed to in writing by both parties. Persons designated to have authority in providing instruction to facilitate changes to this Agreement are listed in Exhibit A, Scope of Work. Persons authorized to provide daily operation instructions are also listed in the Scope of Work, Attachment A. The Department may amend either listing pursuant to a written notification.

INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement. Nothing in this Agreement shall preclude the State from participating in and/or providing its own defense. However, Contractor shall not be relieved from its obligation to indemnify, defend and save harmless the State, its officers, agents and employees even though the State participates in and/or provides its own defense.